

Application No.: 09/980,768

Docket No. D02287

REMARKS

A. Status of the Application

Claims 1-26 and 88-89 are presently under consideration in the instant application. Applicant had previously withdrawn claims 27-87 from consideration.

With this response the Applicant has requested that 1-26 and 88-89 be amended,

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B. Rejections of the Claims under 35 U.S.C. § 112

The Examiner rejected claims 1-26 and 88-89 under 35 U.S.C. § 112 as indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner took issue with the term "cable settop hardware" in claims 1 and 89. With this response, the Applicants have amended those claims to clarify what was intended. "Cable settop hardware" has been replaced with the term "user terminal". "User terminal" is defined in the Background Of The Invention as follows:

A "user terminal" (e.g., digital settop box) for cable or satellite television, or the like, requires OS software, middleware and device drivers to function....

In a settop box, "core software" is provided that allows the settop to provide such necessary television functions as service acquisition, system information (SI) management, download capability (e.g., for new application and OS software), return path communication (e.g., for polling the settop for billing purposes), settop configuration, and conditional access control (i.e., security).

With this amendment, the Applicants believe the indefinite nature of the Claims 1 and 89 has been corrected. Applicant has also requested the amendment of claims 2-26 and 88 so as to conform them with amended claim 1, from which they depend.

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C. Rejection of the Claims under 35 U.S.C. § 102

The Examiner also rejected claims 1, 2, 16, 88 and 89 as being anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,882,639 ("Balabanian"). In doing so the Examiner contended that Balabanian substantially disclosed all of the features specified in claim 1, and taught the further functionality called for in claims 2, 16, 88 and 89.

While the Applicants can appreciate how the Examiner concluded that Balabanian might have applied to the invention as previously claimed, it is hoped that with the present amendment of claims 1 and 89, the clear distinction between the instant invention and Balabanian will be readily evident. In particular, Applicants wish to call the Examiner's attention to the presently amended claim language shown below:

1. An interface to core system software in a user terminal, comprising:
a computer readable medium having computer program code; and
means for executing said computer program code to provide at least one software interface between: *(a) first middleware within the user terminal and (b) the core system software within the user;*
said middleware mediating between an application program and the core system software; and
said software interface enabling said application program to access a function of the user terminal provided by said core system software via said middleware;
wherein the software interface enables compatibility between: *(1) the core system software within the user terminal and (2) a second different middleware resident within the user terminal.*

The intent of the claimed invention was always to provide an interface solution, resident within a user terminal, for ensuring compatibility between differing middleware (also resident within the same user terminal). This bears little resemblance to the telecommunications middleware disclosed in Balabanian. Balabanian is directed to a network middleware intended to provide an efficient multimedia services between two different terminals via a telecommunications network.

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There is never a suggestion of an interface adapted to provide for intra-terminal middleware compatibility. It is a problem that is never even contemplated by Balabanian. The only two independent claims of the present application, 1 and 89, have been amended so that the intra-terminal nature of the instant invention is made very clear, and Applicants request that the Examiner reconsider the § 102 rejection based upon Balabanian.

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D. Rejection of the Claims under 35 U.S.C. § 103

Claims 3-15 and 17-26 have been rejected at unpatenable under 35 U.S.C. § 103(a) over Balabanian in view of "Power TV Operating System" Release 1.5, October 1998, pages 1-52 ("Sambar").

As discussed above, Balabanian never even contemplates an interface adapted to provide for intra-terminal middleware compatibility. The same can be said of the Sambar reference. Combining the two references cannot yield the Applicants' invention as claimed in the presently amended claims. Applicants submit that the present invention is readily distinguishable of any reasonable interpretation of the cited references.

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CONCLUSION

The presently amended claims are believed to patentably distinguishable from the cited art, and Applicant respectfully requests that they be passed to allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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